

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SANDRA LORRAINE SMITH,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
the Social Security Administration,

Defendant.

CASE NO. 12-cv-05805 JRC

ORDER GRANTING REMAND
PURSUANT TO SENTENCE SIX, 42
U.S.C. § 405(g)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13. (*See also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, ECF No. 5; Consent to Proceed Before a United States Magistrate Judge, ECF No. 7.) This matter is before the Court on defendant's stipulated motion to remand the matter to the Commissioner for further consideration pursuant to sentence six of 42 U.S.C. § 405(g). (ECF No. 12.)

After reviewing defendant's stipulated motion (ECF No. 12); the declaration of Willy M. Le (ECF No. 12, Attachment 1) in support of defendant's stipulated motion; and the relevant

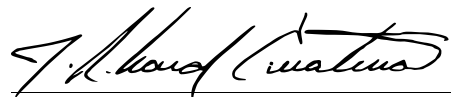
1 record, the Court grants defendant's motion due to the inaudible nature of the audio recording of
2 the administrative hearing, and remands this matter to the Commissioner pursuant to sentence six
3 of 42 U.S.C. § 405(g). The case should not be closed, as this Court retains jurisdiction of this
4 action pending further administrative development of the record. *See* 42 U.S.C. § 405(g); *see*
5 *also Shalala v. Schaefer*, 509 U.S. 292, 297-300 (1993).

6 On remand, based on the parties' stipulation, the Administrative Law Judge shall hold a
7 new hearing and issue a new decision.

8 Given the facts and the parties' stipulation, the Court hereby orders that the case be
9 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g).

- 10 (1) After remand, the Commissioner of Social Security shall modify or affirm the
11 Commissioner's findings of fact or the Commissioner's decision, or both, and
12 shall file with the Court any such additional or modified findings of fact and
13 decision;
- 14 (2) If the outcome still is not fully favorable to plaintiff, the Commissioner shall file
15 with the Court a transcript of the additional record and testimony on which the
16 Commissioner's action in modifying or affirming is based, and plaintiff may seek
17 judicial review by reinstating this case rather than by filing a new complaint; and
- 18 (3) If the outcome is fully favorable to plaintiff, the parties shall move this Court for
19 entry of Judgment.

20 Dated this 10th day of January, 2013.

21 
22 J. Richard Creatura
23 United States Magistrate Judge
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